

REMARKS

Claims 1-23, 25, and 29-33 are pending in the present application. In the Final Office Action mailed February 2, 2010, the Examiner rejected claims 14-20 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner next rejected claims 13, 21, 22, 30, 31, and 32 under 35 U.S.C. §251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based.

Claims 6 and 33 are objected to by the Examiner. Claims 6 and 33 have been amended herein.

Claims 1-12, 23, 25, 29, and 33 are allowed.

Claims 9, 10, 13, 21, 22, 30, 31, and 32 have been canceled herein without prejudice, and will be refiled in a continuation for further prosecution.

Claims 34-36 are newly added.

Interview Summary

A telephonic interview was conducted between the Examiner and the undersigned, Greg Madden, on March 1, 2010. Applicant appreciates the Examiner's time and consideration.

First, the Examiner's objections regarding claims 6 and 33 set forth in the Final Office Action mailed February 2, 2010 were discussed. Specifically, the Examiner suggested that claim 6 be amended to read, in part, "an axle guard system comprising at least one circumferential barrier extending above said face and adjacent said inner circumferential edge of said rim and located in an area absent any of the compactor wheel cleats in the given orientation." The Examiner indicated that such an amendment would overcome the objection and place claim 6 into condition for allowance. As such, Applicant has amended claim 6 in accordance with the Examiner's suggestions, and thus claim 6 is now in condition for allowance.

Similarly, regarding claim 33, the Examiner suggested that the claim be amended to read, in part, "an axle guard system comprising an area free of the plurality of compactor wheel cleats and at least one circumferential barrier extending above said face and adjacent said inner circumferential edge of said rim in an area of said rim absent any of the cleats in the given orientation," as such an amendment would overcome the objection and place claim 33 into condition for allowance. Applicant has amended claim 33 herein according to the Examiner's suggestions, and thus claim 33 is now in condition for allowance.

The rejection of claims 14-20 under 35 U.S.C. §112, first paragraph were also discussed. The Examiner contended that Applicant's amendment to independent claim 14 presented in the October 2, 2009 Response after Non-Final Office Action introduced new matter. To overcome this rejection, the Examiner suggested that claim 14 be amended to read, in part, "an axle guard system comprising a circumferential barrier extending above said face and adjacent said inner circumferential edge of said rim, wherein the circumferential barrier has a face that is substantially perpendicular to the axle." While Applicant does not necessarily agree with the Examiner's rejection of claims 14-20 under 35 U.S.C. §112, first paragraph, Applicant has nonetheless elected to amend claim 14 in accordance with the Examiner's suggestion. As such, Applicant believes that the rejection of claims 14-20 under 35 U.S.C. §112, first paragraph should be withdrawn, and claims 14-20 are in condition for allowance.

Claim Rejections under 35 U.S.C. §251

The Examiner rejected claims 13, 21, 22, 30, 31, and 32 under 35 U.S.C. §251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. While Applicant does not necessarily agree with the Examiner's rejection, Applicant has elected to cancel claims 13, 21, 22, 30, 31, and 32 without prejudice so as to place the application in condition for allowance.

Newly Added Claims

Claims 34-36 have been newly added herein. Claims 34-36 require no further search and consideration by the Examiner, as each claim is simply a previously-allowed dependent claim that incorporates the subject matter of the independent claim. Specifically, claim 34 is a combination of original independent claim 6 and dependent claim 8, both of which were previously considered allowed by the Examiner. Claim 35 is a combination of original independent claim 6 and dependent claims 9 and 10, which were again previously considered allowed by the Examiner. Finally, claim 36 is a combination of original independent claim 6 and original dependent claim 13. There is no duplicity since claim 6 was previously amended. No further fee for the additional independent claims is considered necessary, as an equal number of independent claims have been canceled herein.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-8, 11, 12, 14-20, 23, 25, 29, and 33-36.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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General Authorization and Extension of Time

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2623. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2623. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2623. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2623.

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